



ZONING BOARD OF ADJUSTMENT & APPEALS

AGENDA REQUEST

AGENDA OF:	04/30/08	AGENDA REQUEST NO:	III A
INITIATED BY:	HAROLD ELLIS, PLANNER II <i>HE</i>	RESPONSIBLE DEPARTMENT:	PLANNING
PRESENTED BY:	HAROLD ELLIS, PLANNER II	ASSISTANT PLANNING DIRECTOR:	DOUGLAS P. SCHOMBURG, AICP <i>D.P.S.</i>
		ADDITIONAL DEPARTMENT HEAD (S):	N/A

SUBJECT / PROCEEDING:	VARIANCE TO THE HILL-AREA RESIDENTIAL (HR-1) DISTRICT MAXIMUM 3' OVERHANG ALLOWANCE FOR PROPERTY LOCATED AT 615 MAIN STREET PUBLIC HEARING, CONSIDERATION AND ACTION
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EXHIBITS:	STAFF REPORT WITH AERIAL, VICINITY MAP, SITE PLAN, SITE PHOTOS, VARIANCE APPLICATION, PUBLIC HEARING NOTICE
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CLEARANCES		APPROVAL	
LEGAL:	N/A	DIRECTOR OF PLANNING:	SABINE SOMERS-KUENZEL, AICP <i>SK</i>

RECOMMENDED ACTION

The staff does not typically make recommendations regarding variances.

EXECUTIVE SUMMARY

The applicant has requested a variance to the 3' *maximum overhang allowance* in the Hill-Area Residential District (HR-1). The property is located at 615 Main Street. The applicant has already constructed, without a building permit, an unenclosed patio cover which does not meet the setbacks for the zoning district. Section 2-186 (b) allows for *awnings and canopies attached to a principal building and projecting not more than three feet from the side of the building, and located at least eight feet above adjoining walkways and driveways*. The porch was constructed with a 7' awning, and the code allows for a 3' awning, so the variance requested is for 4'. Previously, on November 28, 2007, the ZBA denied a variance to the 25' front yard setback on this property. That request involved Sec. 2-88 (f) (1). On January 16, 2008, the ZBA tabled a request by the applicants to re-hear the same request. That item is still tabled. With this case, the physical characteristics of the building and lot have not changed. However, this case is considered a different variance request because it involves a different section of the Development Code. All four of the criteria must still be met in order for the Board to grant this variance.

Mark Rode, rodedog@peopleoc.com
File No. 9551

STAFF REPORT

Sec. 2-44. Public Hearing.

After receiving a proper application, the Director will schedule a public hearing on the variance before the Board. At least ten days prior to the hearing, written notice of the time and place of the hearing must be given to the person filing the appeal and to the owners of adjoining properties within 200 feet in the same manner in which adjoining properties are given notice of a hearing before the Commission for a change in zoning classification.

A public hearing has been scheduled. Notice of the hearing was published in a newspaper of general circulation. All property owners within 200' of the site/s were notified. In addition, a courtesy notification sign was placed at the site. At the time of this report, staff has received seven phone calls/emails regarding the variance. There were six requests for general information and one caller in support of the variance.

Site Analysis and Discussion:

Under Chapter 2, Article III, Section 2-186 of the Development Code, open and uncovered porches may project up to 10' from the principal structure. If the front porch structure were uncovered it would meet this requirement of the Development Code. Additionally, under the same section of the code, an awning or canopy may project up to 3' from the principal structure, which is another alternative that allows a 3' extension from the wall of the house that could be covered. To exercise this option, the roof over the porch would need to be shortened to 3', or a variance in the amount of 4' granted, as the porch currently has a 7' cover.

Staff has conducted an examination of characteristics of other homes with porches in the Hill District. Along Main Street there are three other homes besides 615 Main Street with front porches which extend past the front of the house, into the front yard. Those three appear to be conforming. Two are uncovered, and one is covered. The uncovered porches are conforming because they may extend 10' beyond the house because it is uncovered, and the covered porch is conforming because the front yard setback appears to be met due to a larger front yard. Photos of all three are on the next page.

In looking at remaining portion of the Hill District aside from Main Street, there are a wide variety of different types of front porches. However, one common characteristic of the area is that the majority of homes, regardless of the presence of a front porch or the type of porch, are in close alignment with each other and the street as a whole. For example, the homes along First Street are all fairly close to the front property line, and have front porches, mainly enclosed. At the same time, the porches are similar in size resulting in a row of homes along the street in line with each other. Similarly, along the northern side of Fourth and Fifth streets, there is a variety of types of front porches yet the homes all line up along the front of the buildings.

In researching past variances in the Hill District, staff found two regarding front porches. The cases were approved on 3/21/01 by the ZBA and were limited in scope. Details are as follows:

107 Lakeview: 3' Front yard variance requested, porch to be at 22' from property line, 25' req'd

131 Lakeview: 2.5' Front yard variance requested, porch to be at 22.5' from property line, 25 req'd



- **603 Main Street**
- ***Uncovered* porch extending beyond front of house**
- **Likely conforming because uncovered porches may extend 10' past house**



- **419 Main Street**
- ***Uncovered* porch extending beyond front of house**
- **Likely conforming because uncovered porches may extend 10' past house**



- **319 Main Street**
- ***Covered* front porch extending beyond front of house**
- **Conforming – larger front yard**

Aerial View of Properties Near 615 Main St.: (2006 Photo)



Points for Consideration/Variance Criteria:

Sec. 2-45. Board Decision.

After the public hearing, the Board may, by the affirmative vote of 75% of its members, grant a variance to the terms of these zoning regulations if the Board finds:

(a) That there are special circumstances or conditions applying to the land or building for which the variance is sought, which circumstances or conditions are peculiar to the land or building and do not apply generally to land or buildings in the same zoning district or neighborhood, and that the circumstances or conditions are such that the strict application of the provisions of these regulations would deprive the applicant of the reasonable use of such land or building; and

The lots within the Hill District (HR-1) near 615 Main Street appear to have various measurements to width and depth, but generally meet the District requirements of 60' x 110'. Research indicates that many of the nearby homes along Main Street do not meet the front yard setback, as illustrated on the aerial photograph. The minimum lot depth in the HR-1 zoning district of 110' is the same as the Standard Single Family Residential (R-1) District. The lot in question has an average lot depth of 122', and exceeds the HR-1 requirements. The lot appears to have a smaller width as compared to adjacent lots to the immediate north and south, however this does not appear relevant to the cover extension.

(b) That the granting of the variance will not be detrimental to the public welfare or injurious to the property or improvements in the district or neighborhood in which the property is located; and

While the Board will determine after the public hearing if granting the variance will be detrimental to the public welfare. No safety issues have been identified by staff.

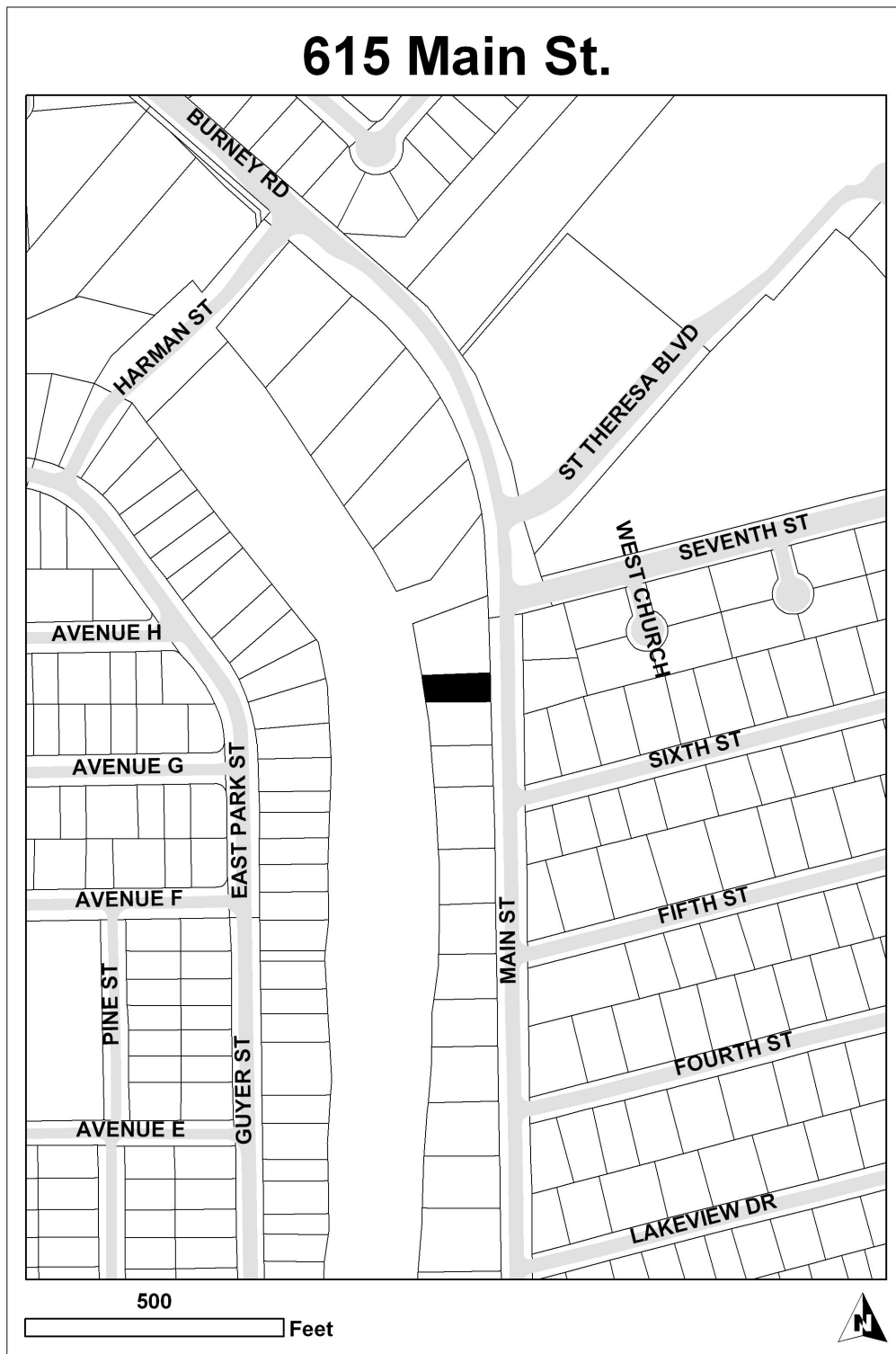
(c) That the granting of the variance is necessary for the reasonable use of the land or Building and is the minimum variance that will accomplish this purpose; and

This property was being used as a single family home prior to the construction of the porch. The applicant believes that the front porch is reasonable for the use of the land. As stated above, the Board must determine whether a variance is needed for the reasonable use of the property. The unpermitted porch was constructed with dimensions of 26.5' X 7'. The Development Code allows for a 3' projection, so a 4' variance would be the minimum needed to allow the porch to remain as is to avoid removal of part or all of the covered porch roof structure.

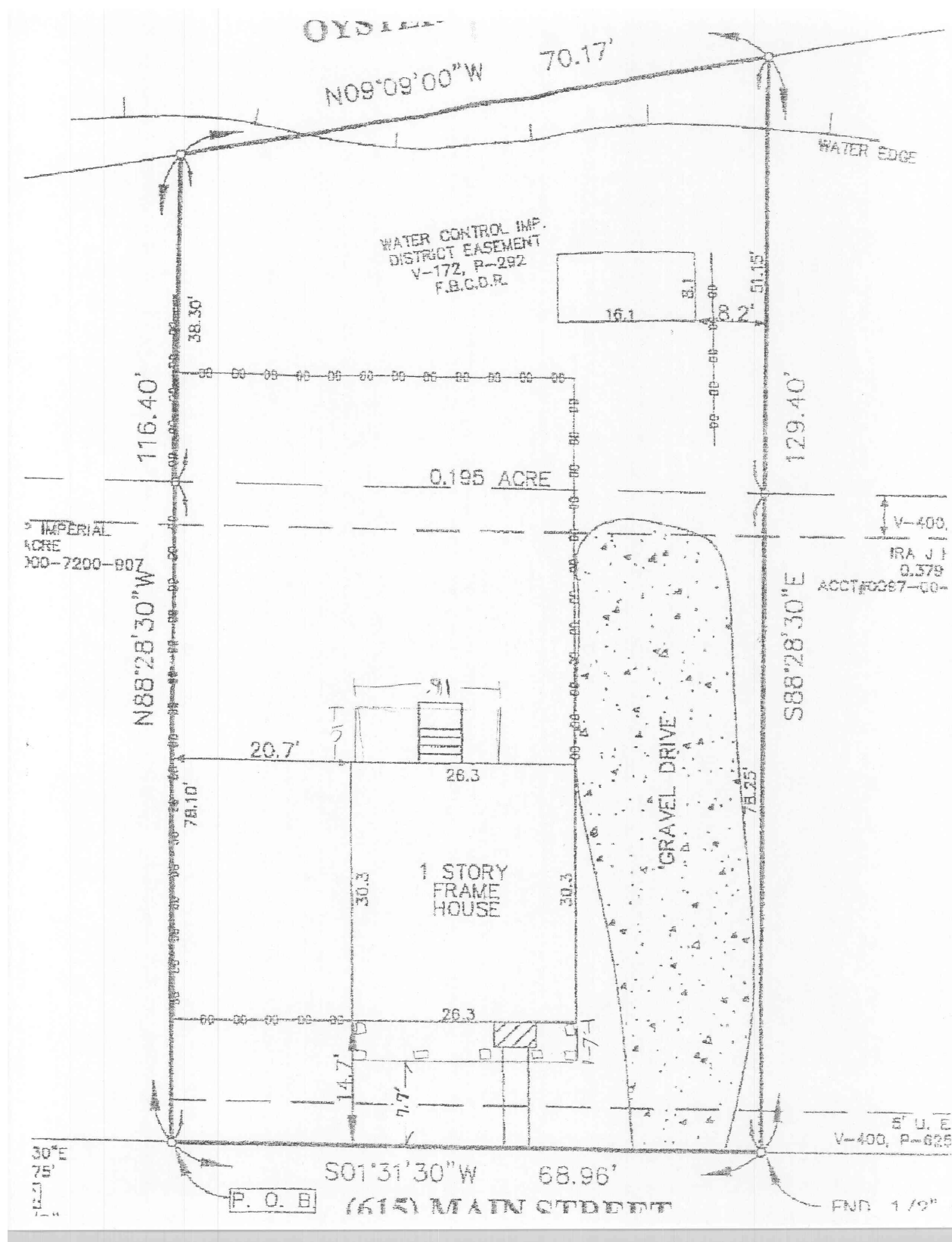
(d) That literal enforcement and strict application of the provisions of these zoning regulations will result in an unnecessary hardship inconsistent with the general provisions and intent of these zoning regulations and that, in granting the variance, the spirit of these zoning regulations will be preserved and substantial justice done.

The Board will determine if a hardship exists. This question primarily deals with what is an unnecessary hardship and needs to relate to and result from the special circumstances of the land or structure (see a., above), rather than economic circumstances.

Vicinity Map:



Proposed Site Plan: (Can be attached as a condition to variance approval)



Site Photos:

615 Main (Front)



(Front Angle)



(Left Side)



(Right Side)



Front of house, prior to new porch, submitted with original permit application:



Application:



FOR OFFICE USE
Accounting Code: ZC

CITY OF SUGAR LAND
ZONING OR SUBDIVISION REGULATION
VARIANCE REQUEST APPLICATION

Please fill out the following information & return your submittal to the Planning Department, 2700 Town Center Blvd., N., Sugar Land, TX 77479, Attention: Gretchen Pyle

SUBDIVISION / PROJECT NAME:

APPLICANT: MARK W. RODE
Address: 1123 Misty Lake Dr. #2
Company: _____
Phone: 713-254-7522
Fax: 281-240-1154
Email: Rod@dog@peoplepc.com

OWNER / AGENT:
Contact / Company: _____
Address: _____
Phone: _____
Fax: _____
Email: _____

Type of Variance: (check one) ☒ Zoning ☐ Subdivision Regulations
Section of Ordinance from which variance is being sought:

Development Code 2-186

HR-1 Dist.
@15 Main St.

Variance Justification:

Special Circumstances: SEE ATTACHED

Public Welfare: _____

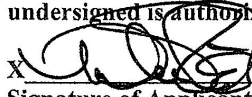
Necessity: _____

Reasonable Alternatives: _____

Application (Continued):

Zoning or Subdivision Variance Application
Page 2

This is to certify that the information on this form is complete, true, and correct and the undersigned is authorized to make this application.

X 
Signature of Applicant

Date: 4-2-08

SUBMITTAL REQUIREMENTS: (Zoning)

- THREE (3) copies of Application
- Submittal Fee: \$500 (non-refundable)
- THREE (3) copies of site plan or plot plan or plat, including vicinity map
- Address of property owners located within 200 feet

SUBMITTAL REQUIREMENTS: (Subdivision Regs)

- THREE (3) copies of Application
- Submittal Fee: \$500 (non-refundable)
- THREE (3) copies of site sketch or plat, including vicinity map

Application (Continued):

**Attachment to Variance Request Application
for
615 Main Street, Sugar Land, TX 77478
Request for 4 feet 7 inch additional porch covering**

Regarding: Development Code Section 2-186

"Every part of a required Front Yard and Street Side Yard must be open and unobstructed from the general ground level of the graded lot to the sky, except as follows:

(b) Awnings and canopies attached to a Principal Building and projecting not more than three feet from the side of the Building, and located at least 8 feet above adjoining walkways and driveways.

(h) Open entrances, stoops and porches, when not covered, may project not more than 10 feet from a Principal Building, but not more than 18 inches above grade.

Variance justification:

Special Circumstances:

Section 2-186 (h) allows for a 10 foot porch on the Principal Building. The subject currently has a 7 foot porch. The porch is allowed by the development code and already technically obstructs the yard from the sky as is mentioned in Section 2-186 (b).

Section 2-186 (b) allows for a 3 foot covering. We are simply asking for a variance in order to cover the remainder of the porch, that is, another 4 feet and 7 inches of covering.

- As most of the homes on "The Hill" were built with covered porches and many now have or have added covered porches, we feel the property rights of the building, (the subject), are restricted if the the code is strictly enforced.
- The house on the subject is 760 square feet. We are simply trying to provide more useable living space to its occupants, even in inclement weather, by covering the entire porch, not just three feet of it.

Application (Continued):

The property lot faces encumbrances and circumstances that are different from most, if not, all of the lots on "The Hill". The conditions of the land are as follows:

- The average size of an interior lot on "The Hill" is 9855 square feet while the average size of lots on the water is 12,559 square feet.
- The lot size of this property is 8484 square feet.
- While the size meets the minimum code size of 6600 square feet for The Hill, it is the smallest lot backing to Oyster Creek.
- The creek lots, in general, face a usage loss due to the often steep slope down to the creek bank.
- The subject lot also faces additional usage loss due to the designated dimensions of the back of the lot actually being IN the creek.
- 615 Main also has easements created by the Water Control Improvement District, a 5 foot utility easement on the eastern side about two thirds of the way into the lot, and a five foot utility easement on the western side.
- The easements, the slope of the lot terrain and the loss of actual square footage of the land lost to being located in the creek add up to an approximate 40% loss of useable land space on the lot.
- While the Owners knew the conditions of the lot when the property was purchased, they thought the addition of a covered front porch would not only add to the aesthetics of the home, but would solve some of the difficulties of trying to provide more liveable space.

Public Welfare:

- We have had an overwhelming show of support in "The Hill". We walked a

Application (Continued):

petition and obtained 68 supporting signatures. In addition, we have had other emails supporting our variance request, as well as a letters/emails to the City voicing support of our variance request.

- There are other people on "The Hill" who are anxiously awaiting this decision to be able, themselves, to add porches to their homes in this beautiful, historic neighborhood.

Necessity:

- We feel this variance is necessary for the safe entry and exit from the home in all weather conditions. An uncovered, wooden porch can be slippery when wet or damp.
- There is no garage from which to safely enter a vehicle in inclement weather.

In conclusion, the Owners feel that the literal enforcement and strict application of Development Code Section 2-186 (b), allowing only a three foot cover over an 7 foot porch creates an UNNECESSARY hardship that is inconsistent with the intent of the zoning regulations, and that, in granting this variance, the spirit of these zoning regulations will be preserved and substantial justice done.

Application (Continued):

(4/3/2008) Harold L. Ellis - 615 Main - Any possible alternative solutions

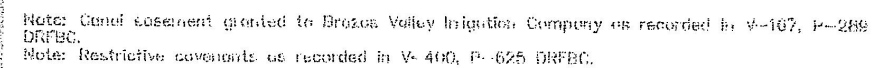
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From: <lenoragoff@aol.com>
To: <hellis@sugarlandtx.gov>
CC: <rodedog@peoplepc.com>
Date: 4/2/2008 2:34 PM
Subject: 615 Main - Any possible alternative solutions

Hi Harold,

Regarding any possible alternative solutions to the variance request for 615 Main ...
The Rode's are of the feeling that, considering we are talking about a porch, a full covering over the porch
is the only alternative.? They find it very impractical to cover only three feet of the porch.

Thanks!
Sissie Goff



DESCRIBED PROPERTY:

0.185 acre tract out of the Imperial Sugar Company's Townsite Tract in the S. M. Williams Locust A-57 Fort Bend County, Texas and being more particularly described by notes and bounds as attached.



I, Sharon H. Stefford, Registered Professional Land Surveyor, State of Texas, do hereby certify that the above Plat represents an actual survey made on the ground on this day under my supervision, and that it is not a reproduction, recitation, abridgement or use of boundary lines, or any combination, or condensing of improvements, or the best of my knowledge and belief, correct in every respect.

State that the two natural numbers to use in the property
state that property does not hold for a fixed natural number
? according to the book.

440234 0120 3 10/02/97 Zone X
(Floor of property is AS)

NOTICE OF PUBLIC HEARING

REQUESTED VARIANCE TO THE FRONT YARD SETBACK REQUIREMENT FOR PROPERTY LOCATED AT 615 MAIN STREET, IN THE HILL-AREA RESIDENTIAL (HR-1) DISTRICT

NOTICE OF PUBLIC HEARING REGARDING A REQUESTED VARIANCE TO THE FRONT YARD SETBACK REQUIREMENT FOR PROPERTY LOCATED AT 615 MAIN STREET, IN THE HILL-AREA RESIDENTIAL (HR-1) DISTRICT, MORE SPECIFICALLY DESCRIBED AS 0.195 ACRE TRACT OUT OF THE IMPERIAL SUGAR COMPANY'S TOWNSITE TRACT IN THE S. M. WILLIAMS LEAGUE A-97.

PURPOSE: One (1) public hearing shall be held at which all persons interested in the proposed Variance request shall be given an opportunity to be heard.

WHERE: CITY OF SUGAR LAND CITY COUNCIL CHAMBER
CITY HALL
2700 TOWN CENTER BOULEVARD NORTH
SUGAR LAND, TEXAS

WHEN: CITY OF SUGAR LAND
ZONING BOARD OF ADJUSTMENT
5 PM, NOVEMBER 28, 2007

DETAILS OF THE PROPOSED ZONING VARIANCE MAY BE OBTAINED BY CONTACTING THE CITY OF SUGAR LAND PLANNING OFFICE AT (281) 275-2218 OR BY EMAIL AT PLANNING@SUGARLANDTX.GOV. THE PLANNING OFFICE IS OPEN MONDAY THROUGH FRIDAY FROM 8:00 O'CLOCK A.M. TO 5:00 O'CLOCK P.M., AND IS LOCATED AT CITY HALL, 2700 TOWN CENTER BOULEVARD NORTH, SUGAR LAND, TEXAS. PLEASE CONTACT US IF YOU WISH TO SET UP AN APPOINTMENT TO GO OVER ADDITIONAL DETAILS IN PERSON.